

## EXCLUSIVE: Sheriff's department finds copies of 911 tapes from fatal boat crash case

Contributed by Elizabeth Larson  
Monday, 06 July 2009  
Last Updated Thursday, 06 August 2009

LAKEPORT &ndash; Copies of 911 calls reporting a fatal 2006 boat crash that were believed to have been permanently deleted from the Lake County Sheriff's dispatch system have been discovered, according to officials.

The Lake County Sheriff's Office revealed the information as part of a Freedom of Information Act request Lake County News submitted last month.

The recordings relate to a fatal nighttime boat crash that occurred on Clear Lake on April 29, 2006, for which Carmichael resident Bismarck Dinius, 41, is being charged with felony vehicular manslaughter with a boat and boating under the influence.

Dinius was steering the Beats Workin' II, owned by Willows resident Mark Weber, when it was hit by a power boat driven by Russell Perdock, an off-duty chief deputy with the Lake County Sheriff's Office. Weber's longtime girlfriend, Lynn Thornton, 51, died a few days later from the injuries she sustained in the crash.

The Lake County District Attorney's Office filed charges in the spring of 2007 against Dinius, alleging he was under way without the sailboat's running lights and that he was drunk while at the boat's tiller, with a blood test showing a 0.12 blood alcohol level.

The investigative report said Perdock was driving his boat too fast for conditions &ndash; estimates of his speed by his own account and that of others ranges anywhere from 30 miles per hour to about 60 miles per hour. He was not charged in the case.

In a May 19 hearing in the case, Deputy District Attorney John Langan told the court that he needed additional time to investigate new information in the case.

Part of the investigation, Langan said at the time, involved researching 911 calls reporting the crash that he said &ldquo;were no longer in existence.&rdquo;

He told Lake County News in a followup interview later that day, &ldquo;I was told there was a significant number of calls that came in,&rdquo; he said. &ldquo;For whatever reason, those calls were not preserved.&rdquo;

All the District Attorney's Office had at that time were the 911 calls made from Perdock's cell phone, according to Langan.

Capt. James Bauman of the Lake County Sheriff's Office said in a May 19 interview that the law requires the sheriff's office to retain the 911 calls for 180 days, or six months.

However, the sheriff's Mercom dispatch system keeps the records a full year, meaning the recordings would have been purged from the system on April 29, 2007.

Bauman said copies of 911 calls are released after a request is made to the agency. &ldquo;We don't provide it without a request.&rdquo;

That request is then sent to the dispatch supervisors, who track fulfillment of the requests, he said.

Langan, who took over prosecuting the case in February of 2008 from Deputy District Attorney David McKillop, who left Lake County for another job, was himself removed from the case early in June.

On June 12 District Attorney Jon Hopkins made his first appearance as prosecutor and announced he planned to move forward with the case, and would not drop charges, as Langan had suggested might happen.

Information request looks at 911 tape request time line

A few days before Hopkins appeared at the June 12 hearing, Lake County News asked him if it was possible that his office had received copies of the tapes previously. He said he wouldn't offer an opinion on that, and since that time has been limited in his comments about the case outside of court.

Following that discussion, on June 10, Lake County News submitted a Freedom of Information Act Request seeking information on any requests that had been submitted for the audio recordings and who made them.

On July 1, Sheriff Rod Mitchell confirmed that the request would be fulfilled. On July 3 Bauman supplied the following information.

&ldquo;The first and only request we received from the District Attorney's Office for audio recordings relating to the Dinius case came in July of 2007, several months after the records had been purged from the system,&rdquo; he told Lake County News in a detailed e-mail response.

That request also came after charges were filed against Dinius in May of 2007. At that time, McKillop was prosecuting the case, with part-time investigative help from Tom Clements, a retired Clearlake Police lieutenant, according to case records

Bauman said the sheriff's office informed the District Attorney's Office that all audio records relating to the case had been purged from the system at the time of the July 2007 request.

However, they also told the district attorney that they had received a records subpoena for the recordings in October of 2006 from a private attorney in a civil case &ndash; eventually settled in 2008 &ndash; relating to the crash. That request specifically asked for the calls Perdock made to dispatch that night.

&ldquo;We had retained a duplicate copy of those calls, notified the DA that those were the only recordings still in existence, and provided a duplicate copy to the DA that same month,&rdquo; said Bauman, adding that those recordings only included Perdock's calls, based on the specific subpoena request.

However, last week copies of all the calls were discovered, said Bauman.

He said a member of the sheriff's management staff was going through some of her older emails and found one from the supervisor who made the recordings for the records subpoena in October of 2006.

Bauman said that supervisor had wisely made recordings of all the calls &ndash; from Perdock and all other reporting parties &ndash; that were placed to dispatch to report the crash on the night of April 29, 2006.

&ldquo;That supervisor left the Sheriff&rsquo;s Department prior to July of 2007 so we were unaware that all calls relating to the incident had been preserved until this week,&rdquo; said Bauman.

On Friday afternoon, shortly before Bauman provided the information and time line to Lake County News, he informed Hopkins of the existence of the calls.

Bauman said Hopkins immediately requested a copy of the calls, which Bauman expects will be delivered on Monday.

Jury selection begins Tuesday

The developments in the case take place as jury selection gets set to start this week.

Screening of potential jurors will begin on Tuesday, according to Dinius' attorney, Victor Haltom of Sacramento.

He said he, Hopkins and visiting Judge J. Michael Byrne had a telephone conference last week to go over scheduling details.

Jury selection will continue July 14, 15 and 16, although Haltom said there is a possibility of no proceedings on July 15.

Byrne also had warned about that on June 30, saying that, because of the state's budget problems, courts may not operate that day.

Testimony in the trial is expected to start shortly after July 21 in Department One, said Haltom.

He added that the jury will be informed that the trial likely will last until the end of August or early in September, with court expected to be in session Tuesday through Friday, rather than the usual Tuesday through Thursday.

E-mail Elizabeth Larson at [el Larson@lakeconews.com](mailto:el Larson@lakeconews.com) .